S.B. CIVIL WRIT PETITION NO.1266/2005

Govind Singh and another vs. Nathu Lal and another

Date : 11.3.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Chain Singh for Mr.S.Singh, for the petitioner.

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Heard learned counsel for the petitioners.

The petitioners are aggrieved by the order dated 29.1.2005 by which the first appellate court rejected the petitioners' application under Order 41 Rule 27 C.P.C. after holding that the petitioner came up with a specific case that his father purchased the property vide sale deed Annex.A/1 and the petitioner now in appeal want to place on record the patta which was issued as back as in the year 1929 that too in the name of one Ratan Chand s/o Kistoor Ji and the patta could have been produced by the petitioner much earlier even before the trial court but has not been produced.

Learned counsel for the petitioner submits that if the document is relevant for deciding an issue and the real point in controversy between the parties, the delay may not come in the way of the petitioner.

Whether it was a fit case for condonation of delay in allowing the petitioner to produce the evidence, can very well be examined by the appellate court and

this Court finds no reason to enter into the controversy relating to delay and relevancy of the document while exercising writ jurisdiction under Article 226 of the Constitution of India, looking to the facts of the case.

In view of the above, I do not find any reason to interfere in the impugned order. Accordingly, this writ petition having no force, is hereby dismissed.

However, the petitioner will be at liberty to challenge the order dated 29.1.2005 in appeal in case any occasion arises to do so.

(PRAKASH TATIA), J.

S.Phophaliya